IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 5163 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAM SHASTRI

Versus

STATE OF GUJARAT

Appearance:

MR MJ BUDDHBHATTI for Petitioners

MS HANSA.B.PUNANI, APP for Respondent No. 1-State.

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 22/09/2000

ORAL JUDGEMENT

1. By way of filing this petition under Section 482 of the Criminal Procedure Code, the petitioners-original accused have prayed to quash the complaint and process issued in Criminal Case No.60 of 1993 i.e. Special Case No.249/93, pending before the Special Judge, Rajkot, on the ground that no sanction from the competent authority for filing complaint against the petitioners have been obtained.

2. Heard Mr.M.J.Budhbhatti, learned advocate for the

petitioners and Ms. Hansa. B. Punani, learned A.P.P. for the respondent No.1-State. The petitioners have filed this petition mainly on the ground of sanction for which they have already submitted an application Exh.12 before the Court below on 8-2-93, but the learned Sessions Judge, Rajkot, firstly issued notice and thereafter passed the order to hear the application Exh.12 along with the final hearing of the case. Once the petitioners have submitted an application for discharging them, the learned Sessions Judge ought to have decided the same. But the learned Sessions Judge, Rajkot, instead of deciding the application Exh.12 passed an order fixing the hearing of the said application along with the final hearing of the case. The said order passed by the learned Sessions Judge is not just and proper as the point raised in the application Exh.12 is the point which may decide the fate of the case. Therefore, the learned Sessions Judge, Rajkot, is hereby directed to decide application Exh.12 submitted by the petitioners in Criminal Misc. Application No.60 of 1993 i.e. Special Case No.249 of 1993 on merits after giving proper opportunity to the parties. The rights of the parties to raise contentions before the Court below shall remain open.

3. Subject to the aforesaid directions, this petition stands disposed of. Rule discharged.

(R.P.Dholakia, J.)

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